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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,313	06/26/2003	Satoru Wakao	00862.023113.	3192
5514 7590 05/11/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
ZEE, EDWARD				
ART UNIT		PAPER NUMBER		
2435				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/606,313

**Applicant(s)**

WAKAO, SATORU

**Examiner**

EDWARD ZEE

**Art Unit**

2435

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-11 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-11 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This is in response to the amendments filed on March 3<sup>rd</sup>, 2009. Claims 1, 3-11 and 22 are pending and have been considered below.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/03/09 has been entered.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 1, 3-11 and 22** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. **Claims 1, 3, 4, 8 and 11** recite the limitation "the imaging apparatus" throughout these claims. There is insufficient antecedent basis for this limitation in the claim. The Examiner respectfully submits that parent Claim 1 appears to recite at least a first "imaging apparatus" and a "second imaging apparatus", and thus may be unclear which "imaging apparatus" the particular limitation above is referring to.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1, 3-11 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Ferren et al. (7,047,418).**

***Claim 1:*** Ferren et al. discloses an imaging apparatus comprising:

a. an image data generating unit which generates first image data(*ie. imaging device*)

[column 4, lines 13-19];

b. an authentication data generating unit which generates first authentication data from the first image data(*ie. biometric information is gathered...in a manner that allows...authentication, etc.*) [column 4, lines 13-19];

c. a receiving unit which receives second image data(*ie. images generated by another supposed operator or the like*) and second authentication data from an external device(*ie. removable memory, etc.*), wherein both the second image data and the second authentication data are generated by a second imaging apparatus, and the second authentication data is generated from the second image data [column 6, lines 10-18];

d. an authentication unit which has (a) a first authentication mode where said authentication unit authenticates, using the first authentication data, whether the first image data

has been altered, and (b) a second authentication mode where said authentication unit authenticates, using the second authentication data, whether the second image data has been altered [column 6, lines 47-59]; and

c. a display unit which (a) displays information indicating that the first image data was generated by the imaging apparatus(*ie. if the biometric signatures do match, the supposed operator is authenticated as the operator of the imagine device as the time of image capture*), if said authentication unit authenticates whether the first image data has been altered and (b) displays information indicating that the second image data was not generated by the imaging apparatus(*ie. if the respectively biometric signatures do not match, the supposed operator cannot be authenticated as the operator, thus another operator and/or imaging apparatus generated the second image data*), if said authentication unit authenticates whether the second image data has been altered [column 7, lines 1-14].

**Claim 3:** Ferren et al. discloses the imaging apparatus according to Claim 1, wherein said authentication data generating unit generates the first authentication data using data unique to the imaging apparatus [column 6, lines 19-26].

**Claim 4:** Ferren et al. discloses the imaging apparatus according to Claim 1, wherein said authentication data generating unit generates the first authentication data using secret data held by the imaging apparatus [column 6, lines 1-9].

**Claim 5:** Ferren et al. discloses the imaging apparatus according to Claim 1, wherein said authentication data generating unit generates the first authentication data using a hash function [column 5, lines 58-67].

**Claim 6:** Ferren et al. discloses the imaging apparatus according to Claim 1, wherein said authentication data generating unit generates the first authentication data using a common key cipher [column 6, lines 1-9].

**Claim 7:** Ferren et al. discloses the imaging apparatus according to Claim 1, wherein said authentication unit authenticates, using data unique to the second imaging apparatus, whether the second image data generated by the second imaging apparatus has been altered [column 6, lines 19-26].

**Claim 8:** Ferren et al. discloses the imaging apparatus according to Claim 1, wherein said authentication unit authenticates, using secret data held by the imaging apparatus, whether the second image data generated by the second imaging apparatus has been altered [column 6, lines 1-9].

**Claim 9:** Ferren et al. discloses the imaging apparatus according to Claim 1, wherein said authentication unit authenticates, using a hash function, whether the second image data generated by the second imaging apparatus has been altered [column 5, lines 58-67].

**Claim 10:** Ferren et al. discloses the imaging apparatus according to Claim 1, wherein said authentication unit authenticates, using a common key cipher, whether the second image data generated by the second imaging apparatus has been altered [column 6, lines 1-9].

**Claim 11:** Ferren et al. discloses the imaging apparatus according to Claim 1, wherein the imaging apparatus is one of a digital camera, a digital video camera, and a scanner [figure 7].

**Claim 22:** Ferren et al. discloses the imaging apparatus according to claim 1, further comprising a storage interface unit which stores the first image data with the first authentication data in a

removable storage medium, and stores the second image data with the second authentication data in the removable storage medium [column 6, lines 10-18].

### ***Response to Arguments***

8. Applicant's arguments with respect to claim 1 has been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWARD ZEE whose telephone number is (571)270-1686. The examiner can normally be reached on Monday through Thursday 9:00AM-5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EZ  
May 8, 2009  
/Kimyen Vu/  
Supervisory Patent Examiner, Art Unit 2435